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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,768	12/02/2003	Anthony L. Owoc	D0932-00321	3267
8933	7590	12/28/2005	EXAMINER	
DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			LAUX, JESSICA L	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/725,768

Applicant(s)

OWOC ET AL.

Examiner

Jessica Laux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-21 is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the retention latch or barb of claim 4, the fasteners through the female connector of claim 11, and the decorative moldings of claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what length is encompassed by "about".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Fein (DES 300566).

In regards to claim 1: Fein teaches a one piece flexible tubular body having opposing edges with a seam connector along its length (Figure 13).

In regards to claim 2: Fein teaches the element of claim 1 above having a male and female connector along its length where the male and female parts connect (Figures 13 and 14).

In regards to claim 3: Fein teaches the element of claims 1 and 2 above wherein the outer surface of the element has an ornamental configuration that camouflages the seam connection (Figure 16).

In regards to claim 6: The element as taught by Fein in claim 1 above is capable of opening a sufficient width to be about the length of the smallest interior dimension of the element when fully closed.

In regards to claim 7: The element as taught by Fein in claim 1 above is capable of opening a sufficient width to be less than the length of the smallest interior dimension when fully closed and where the element is sipped over a post.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fein (DES 300566) in view of Teasdale (5480126).

In regards to claim 4: Fein teaches an element as in claims 1 and 2 above but does not teach male and female connectors that have a retention latch. Teasdale teaches a sleeve for a post having male and female connectors that have teeth that interconnect (Col. 3, lines 10-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention as taught by Fein with the teeth as taught by Teasdale to ensure the connection between the parts is solid and strong.

In regards to claim 5: Fein teaches an element as in claim 1 above but is silent as to the type of material used to extrude the element. Teasdale teaches a sleeve for

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covering a post to me made of PVC (Col. 2, lines 57-58). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the element as taught by Fein to be made of PVC as taught by Teasdale as it is common to use PVC for fencing elements for its durability and it is known to extrude PVC for making such structural elements.

Claims 8, 9, 10, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teasdale (5480126) in view of Fein (DES 300566). Teasdale teaches a covering for a fence post where the covering is disposed completely around the post (figure 14). Teasdale does not teach a post covering made of one piece of extruded material that is flexed to permit disposal around a post where the one piece also has male and female connectors that mate and are camouflaged by an ornamental configuration on the outer surface of the covering.

In regards to claims 8, 9, 10, 14, and 15: Fein teaches an extruded one piece body capable of being flexed (figures 13 and 14). The body also has male and female connectors that mate and are camouflaged by the ornamental outer surface (figure 14). The body is capable of opening a sufficient width to be about the length of the smallest interior dimension of the element when fully closed. The body is also capable of opening a sufficient width to be less than the length of the smallest interior dimension when fully closed and where the element is slipped over a post. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the post covering as taught by Teasdale to be a one piece element with a seam closure as taught by Fein as it is known to extrude PVC into structural members and a one

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piece post covering would be easier to install and the female and male connectors would ensure proper closure of the element around the post..

Claims 11, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teasdale (5480126) in view of Fein (DES 300566) and further in view of Davis (5956920). Teasdale in view of Fein teaches a post covering element as in claims 8-10 above. Teasdale in view of Fein does not teach the element to have fasteners through the female connector to secure the element to a post or to have a decorative molding proximate the top or bottom of the body and for the element to cover a pre installed post.

In regards to claim 11: Davis teaches a post cladding element where the female connector is configured to have attachment means through it for securing the element to a post (Col. 4, lines 56-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the element as taught in claim 10 above to have fasteners through the female connector as taught by Davis for the purpose of securing the element to the post in an aesthetically pleasing way.

In regards to claim 12: Davis teaches a post cladding element having decorative molding applied to the top and or bottom of the post (Col. 3, lines 19-24), as noted by the applicant in paragraph 0017 of the specification. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the element as taught in claim 8 to have molding placed at the ends of the post as taught by Davis as this would further protect the post by covering the ends.

In regards to claim 13: Davis teaches a post cladding element that can retrofit and existing post. It would be obvious to modify the invention as in claim 8 to be around an existing post as taught by Davis to protect the post from further exposure to damaging elements and thus prolonging its utility.

***Allowable Subject Matter***

Claims 16-21 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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JL

12/21/2005



Naoko Slack

Primary Ex.

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